

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MARY JO McDANIEL,

Plaintiff,

v.

HALI SAMAI, *et al.*,

Defendants.

Case No. C24-5615-RAJ-MLP

ORDER DENYING PLAINTIFF'S
MOTION FOR APPOINTMENT OF
COUNSEL

Plaintiff Mary Jo McDaniel is a state prisoner who is currently confined at the Washington Corrections Center for Women (“WCCW”) in Gig Harbor, Washington. She filed this civil rights action *pro se* and *in forma pauperis*. Plaintiff alleges in this action that Defendants were deliberately indifferent to her health and safety, in violation of her rights under the Eighth Amendment, when they failed to adequately respond to an injury she sustained while working in the WCCW kitchen. (*See* dkt. # 1-1.) This matter is now before the Court for consideration of Plaintiff’s motion for appointment of counsel (dkt. # 1-2), which she submitted in conjunction with her civil rights complaint.

Plaintiff is advised that there is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the Court, under 28 U.S.C. § 1915(e)(1), can request counsel to

1 represent a party proceeding *in forma pauperis*, the Court may do so only in exceptional
2 circumstances. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986); *Franklin v. Murphy*,
3 745 F.2d 1221, 1236 (9th Cir. 1984). A finding of exceptional circumstances requires an
4 evaluation of both the likelihood of success on the merits and the ability of the Plaintiff to
5 articulate her claims *pro se* in light of the complexity of the legal issues involved. *Wilborn*, 789
6 F.2d at 1331.

7 Plaintiff argues in support of her motion for appointment of counsel that she is unable to
8 afford counsel, that she suffers from serious mental health issues, and that she has no knowledge
9 of the law. (Dkt. # 1-2 at 1-2.) Plaintiff further argues that the issues involved in the case are
10 complex, that she has limited access to the law library, and that her confinement will preclude
11 her from investigating the case and presenting evidence. (*Id.* at 1-2, 4.) Finally, Plaintiff argues
12 that there is an “extraordinary need for counsel” here because the incident giving rise to her
13 federal claims may also give rise to worker’s compensation and labor and industries issues, and
14 to social security disability problems, all of which will make this case difficult to navigate for an
15 inexperienced litigant. (*Id.* at 5.)

16 Plaintiff’s indigency and her lack of legal knowledge are not exceptional circumstances
17 sufficient to warrant the appointment of counsel. As to Plaintiff’s claim that she has serious
18 mental health issues, she fails to demonstrate that this alleged disability will interfere with her
19 ability to litigate this action. Indeed, the materials thus far submitted to the Court for
20 consideration are well organized, Plaintiff’s claims are clearly alleged, and she has attached
21 relevant exhibits in support of her pleading, all of which suggests that Plaintiff is competent to
22 litigate this action.

1 To the extent Plaintiff expresses concerns about her limited access to the law library and
2 her ability to adequately investigate this case, she has identified challenges typical of those faced
3 by prisoners litigating actions from within the confines of a correctional facility, challenges
4 which do not, by themselves, constitute extraordinary circumstances. If, as this action proceeds,
5 Plaintiff finds that limitations on library access hinder her ability to meet Court imposed
6 deadlines, she may seek relief from such deadlines by filing an appropriate motion with the
7 Court.

8 With respect to Plaintiff's claims regarding the complexity of this case, the record belies
9 the assertion that this action is too complex for Plaintiff to litigate without assistance. Plaintiff
10 presents relatively straightforward claims that she was injured while working in the WCCW
11 kitchen on June 8, 2023, and that staff failed to appropriately respond to her injury. (*See* dkt.
12 # 1-1 at 4-6, 12-14.) Plaintiff's claim is limited in time and scope, and she has demonstrated
13 ample ability to articulate the legal and factual bases of her claim without the assistance of
14 counsel. As noted above, Plaintiff suggests that this case involves additional complexities
15 because the events giving rise to this lawsuit might also give rise to claims she may wish to
16 pursue through various administrative agencies. Plaintiff is advised that even if counsel were
17 appointed to represent her in this action, such an appointment would be limited to claims
18 properly raised in a federal civil rights action and would not extend to any administrative claims
19 Plaintiff may wish to pursue.

20 Finally, while Plaintiff submits a detailed declaration in support of her motion for
21 appointment of counsel that describes the events giving rise to her claims, neither the declaration
22 nor Plaintiff's other submissions are sufficient to demonstrate that she is likely to succeed on the
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1 merits of her constitutional claims. The record will require further development before the Court
2 will be able to make any determination in this regard.

3 Based on the information available to the Court at this juncture, this Court must conclude
4 that Plaintiff has not demonstrated that her case involves exceptional circumstances which
5 warrant the appointment of counsel. Accordingly, the Court hereby ORDERS as follows:

6 (1) Plaintiff's motion for appointment of counsel (dkt. # 1-2) is DENIED without
7 prejudice to Plaintiff renewing her motion at a later date if she believes she can satisfy the
8 standard set forth above.

9 (2) The Clerk is directed to send copies of this Order to Plaintiff and to the Honorable
10 Richard A. Jones.

11 DATED this 16th day of August, 2024.

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14 MICHELLE L. PETERSON
15 United States Magistrate Judge
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